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August 16, 2022

By ECF and E-Mail

Honorable Analisa Torres
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

***Re: Luxwear Ltd., et al. v. Adaptiv Research & Development Group, LLC
22 Civ. 5458 (AT)***

Dear Judge Torres:

We represent Luxwear Ltd. and Seven Trade LLC, the plaintiffs in the above-referenced matter. This is in response to defendant's letter dated August 12, 2022, which requests an extension to respond to the complaint that was filed on June 28, 2022. Plaintiffs oppose defendant's request.

By way of relevant background, the Summons and Complaint were filed on June 28, 2022. Pursuant to my discussions with defendant's counsel (Anne Chapman of Blalock Walters) prior to the commencement of this action, counsel was authorized to accept service on behalf of defendant. Ms. Chapman requested 30 days to respond to the complaint and I therefore agreed to extend defendant's time to respond until August 1.¹

On July 20, I asked Ms. Chapman (by e-mail) who would be appearing as counsel for defendant. She responded that she did not yet know.

On August 2 (the day after defendant's answer was due per my agreement with Ms. Chapman), I spoke with Ryan Rucki of Torres, Scammon, Hincks & Day, LLP, who advised that he represented defendant "in Massachusetts" and was seeking New York counsel for defendant in this action. Per Mr. Rucki's request, I agreed to extend defendant's time to respond to the complaint until *August 15* on the express condition that this would be the last extension given on consent. Mr. Rucki agreed. (These e-mails are annexed.)

¹ In the interim, the Court directed that the complaint be amended to include information regarding the "citizenship of each constituent person or entity" for subject matter jurisdiction purposes so, after I confirmed the citizenship of defendant's members with Ms. Chapman, an amended complaint was filed on July 12 (a copy of which was provided to Ms. Chapman).

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I was not contacted by any representative of defendant until *Friday, August 12*, when I received a message that Mr. Alter called; he filed a letter seeking an extension around 4:00 p.m. that day.

It is my usual practice to afford requested courtesies, however, in this instance, courtesies have already been afforded. If granted, defendant's requested extension would provide defendant with over *two-and-one-half months* to respond to a simple, single claim, breach of contract complaint. My clients should not be prejudiced in their attempt to recoup what they are rightfully due by unwarranted delays. (If the Court is inclined to afford defendant a further extension, I respectfully request that it be brief so as to allow the case to expeditiously proceed.)

Thank you for your consideration.

Respectfully submitted,

/s/ Kenneth J. Rubinstein

Kenneth J. Rubinstein

Encl.

cc: Daniel Alter, Esq.
Counsel for defendant

Kenneth Rubinstein

From: Kenneth Rubinstein
Sent: Tuesday, August 2, 2022 1:18 PM
To: Ryan Rucki
Subject: RE: Luxwear Ltd., et al. v. Adaptiv Research & Development Group, LLC | C.A. No. 22-Civ-5458

Ryan, This confirms that plaintiffs will agree to extend Adaptiv's time to answer the complaint until August 15. Please have NY counsel contact me to submit a stipulation re: same. As advised, this will be the last extension given on consent.

Ken

Kenneth J. Rubinstein

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From: Ryan Rucki <rrucki@tshdlegal.com>
Sent: Tuesday, August 2, 2022 12:30 PM
To: Kenneth Rubinstein <KRubinstein@ctswlaw.com>
Subject: Luxwear Ltd., et al. v. Adaptiv Research & Development Group, LLC | C.A. No. 22-Civ-5458

Good afternoon, Attorney Rubinstein,

It was good speaking with you today. As we discussed, I represent Adapiv in Massachusetts. It is currently seeking representation in New York with respect to this matter. As a result, and as we discussed, I would request an extension for Adaptiv to respond to your clients' Complaint until August 15, 2022. Kindly confirm your assent to this request. Thank you.

Regards,

Ryan

Ryan A. Rucki

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